

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-2964-2017

Date of decision: 28.11.2017

Sushma Devi

...Petitioner

Versus

Anil Kumar and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Arun Yadav, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

1. The present revision petition has been filed seeking to challenge judgment dated 05.06.2016 passed by learned Session Judge Jhajjar, and judgment dated 08.12.2015 passed by Judicial Magistrate 1st Class, Jhajjar in FIR No. 178 dated 25.03.2011 under section 354 Indian Penal Code, Police Station Jhajjar, acquitting respondent No. 1 of the charges leveled against him.

2. In brief, the facts are that the petitioner filed a complaint in Police Post Kulana through post alleging that her family falls under the category of Below Poverty Line. On 09.03.2011, she had gone to the house of Pancho wife of Ramavtar for some personal work, where the accused Anil, who was the Sarpanch of the village also came. When Pancho Devi left the room to prepare tea, the complainant asked the Sarpanch as to why her cheque of ₹ 25,000/- which was to be received by her under Indira Vikas Yojana, had not been released so far, to which the Sarpanch asked her either to come to his house in the night or to the fields alone to collect the

cheque. When the petitioner raised an objection, the Sarpanch accused caught hold of her hand, put her on the bed and tried to outrage her modesty. She raised a noise and on hearing the same Pancho Devi came out and on seeing her accused fled away from the spot. A panchayat was convened in this regard, but the accused did not turn up before the Panchayat and thereafter a complaint was registered. After due investigation, a challan was put up in the court of area Magistrate. The prosecution in support of its case examined the petitioner as PW-1, her husband Ajit Singh as PW-2, Head Constable Manjit as PW-3, Devender, Gram Sachiv as PW-4, ASI Jora Singh as PW-5, Head Constable Parveen as PW-6, Inspector Satya Narayan as PW-7 and Pancho Devi as PW-8.

3. The scope of revisional jurisdiction to be exercised by the High Court at the instance of private complainant is limited to instances where the trial court has wrongly shut out evidence which the prosecution wished to produce, where the admissible evidence is wrongly brushed aside as inadmissible, where the trial court has no jurisdiction to try the case and has still acquitted the accused, where the material evidence has been overlooked either by the trial court or the appellate court or the order is passed by considering irrelevant evidence. It is well settled that the revisional jurisdiction cannot be exercised lightly and that it can be exercised only in exceptional cases where there is manifest illegality or miscarriage of justice. It is not for the High Court to re-appreciate evidence.

4. Both the courts below, on appreciation of the evidence, came to the conclusion that there is no merit in the contention raised. The material witness of the prosecution, namely, Pancho Devi in whose house the alleged

incident took place did not support the case of the prosecution when she stepped into the witness box as PW-8. In her cross examination, she specifically stated that neither the complainant nor the accused had come to her house on the day of the alleged occurrence. The testimony of PW-2 was also not relied upon being hearsay evidence, since Ajit Singh, husband of the petitioner complainant, was not present at the spot. As per the testimony of PW-4 Devender, Gram Sachiv, he had conducted a survey of all such persons who would fall under the category of the BPL but in his report (exhibit PW4/A) he did not find the husband of the complainant entitled for taking the benefit of the aforesaid scheme as he owns a constructed house. The Session Judge also perused the enquiry report conducted by DSP, Jhajjar into the allegations after the registration of the FIR and came to the conclusion that the complainant could not substantiate her allegations. Another inquiry was conducted by Prithvi Singh, DSP, Meham who also found that the evidence was not sufficient to arrest the accused.

5. Therefore, in the case in hand, learned counsel appearing on behalf of the petitioner has not been able to point out any material irregularity in the judgements rendered by the courts below. Other than the bald statement of the complainant, there is no other testimony or evidence available to substantiate the claim of the complainant. The material witness i.e. Pancho Devi in whose house the alleged incident is supposed to have taken place has not supported the prosecution version. It is most unlikely that in a small room where three persons were sitting together and one leaves the room to make tea, immediately an assault would take place and an attempt would be made to outrage the modesty, especially when rooms in

a village are in close vicinity.

6. Finding no merit in the arguments raised, the instant petition is dismissed.

28.11.2017

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

yes
No